



MONTGOMERY COUNTY ETHICS COMMISSION

Rahul K. Goel
Chair

Steven Rosen
Vice Chair

August 22, 2019

Waiver 19-07-016

Pursuant to § 19A-12(b)(1)(B) of the Public Ethics Law, a public employee must not be employed by a business that negotiates or contracts with the County agency with which the public employee is affiliated, unless the Ethics Commission grants a waiver of the prohibition. Section 19A-8(b)(3) states that the Ethics Commission may grant a waiver of this prohibition if the Commission concludes that the outside employment will not be likely to create an actual conflict of interest.

Deborah Avila is a Behavioral Health Associate Counselor (BHAC) with the Behavioral Health and Crisis Services (BHCS) Division, Adult Behavioral Health Services (ABHS) Section at the Montgomery County Department of Health and Human Services (DHHS). She would like to engage in outside employment as an Offsite Therapist with Advanced Behavioral Health (ABH), an entity that has a contract with DHHS. Because she seeks to work with an entity that contracts with her County agency, she requests a waiver of the prohibition on being employed by an entity that negotiates or contracts with the County agency with which she is affiliated.

As a BHAC with DHHS-BHCS, her primary role is intake coordinator. Programs such as the Crisis Center, ACCESS to Behavioral Health, and the primary clinics reach out to her about referrals that have been approved by the program supervisor. She then reaches out to the client and schedules and assists with their intake process. She is also responsible for keeping client records up to date. She meets with clients and completes fee assessments and goes over program rules, consent for treatment forms, privacy notices, etc. She also serves as the electronic health record superuser for the office, which means that if there any technical issues, the staff comes to her for assistance. At DHHS-BHCS, she serves low income adults with severe and persistent mental illness residing in Montgomery County. She has no contract monitoring or procurement responsibilities in her County role.

In her role at ABH, she would serve as an offsite therapist for clients in Prince George's County with medical assistance. She would carry a small caseload of approximately 10 to 15 clients. These clients will predominantly be children, but there may be instances when she is working with the children's parents.

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ABH has one contract with DHHS related to child welfare outpatient behavioral health and supportive services for children, adolescents and families. Ms. Avila's role with ABH is unrelated to the contract ABH has with DHHS. Her salary with ABH is paid through reimbursements from clients' medical assistance insurance.

If a Montgomery County client at the ABHS moves to Prince George's County, it is possible that she could encounter a crossover client. If this were to occur, she represents that she would make sure that she informs ABH that she knows the client from her full-time employment and is unable to work with that client. ABH is aware she works for Montgomery County and understands that she cannot see clients that she serves in Montgomery County and would not have her take a client that she worked with while employed with Montgomery County. If a client of hers in Prince George's County moves to Montgomery County and then gets services from her County office, arrangements would be made for that client to be serviced by another staff member.

Ms. Avila has no contract execution functions in her role with ABH with regards to the contract between DHHS and ABH.

Pursuant to § 19A-8(b)(3) of the Public Ethics Law, the Ethics Commission may grant a waiver of the prohibition of § 19A-12(b) if the Ethics Commission concludes that the proposed employment is not likely to create an actual conflict of interest. Upon a review of the request and the Department's concurrence in and support for the waiver request, the Commission finds that there is no actual conflict of interest. Pursuant to the standard of § 19A-8(b)(3), the Commission grants the waiver of the prohibition of § 19A-12(b).

In reaching this decision, the Commission has relied upon the facts presented by Ms. Avila in her request for a waiver. The Commission notes that while 19A-12(b)'s prohibition is waived, the other provisions of the ethics law are not, including those prohibiting an employee from working on official matters affecting the employee's outside employer. The waiver approval is conditioned on the facts on which the waiver is based remaining unchanged. It is also conditioned on Ms. Avila not making referrals as a County employee to the outside business or soliciting other County employees to make such referrals.

For the Commission:



Rahul K. Goel, Chair